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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/828,601	04/06/2001	Steven L. Eikenberg	USAM117030	5690

27370 7590 08/29/2008  
OFFICE OF THE STAFF JUDGE ADVOCATE  
U.S. ARMY MEDICAL RESEARCH AND MATERIEL COMMAND  
ATTN: MCMR-JA (MS. ELIZABETH ARWINE)  
504 SCOTT STREET  
FORT DETRICK, MD 21702-5012

EXAMINER
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WILSON, JOHN J

ART UNIT	PAPER NUMBER
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3732

MAIL DATE	DELIVERY MODE
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08/29/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/828,601	<b>Applicant(s)</b> EIKENBERG, STEVEN L.	
	<b>Examiner</b> John J. Wilson	<b>Art Unit</b> 3732	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 04 May 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-10, 18-21, 27 and 28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10, 18-21, 27 and 28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-10, 18-21, 27 and 28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The language "such that a relatively fit person can physically carry" is indefinite because it is subjective and qualitative there being no way to measure what would meet this claim language and what would not meet the claim language, *Halliburton Energy Services v. M-I LLC*, 514F.3d 1244, 85 U.S.P.Q.2d 1654 (Fed. Cir. 2008).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 6-9, 18-21, 27 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bailey et al (5013240) in view of Slouka (3597033). Bailey shows a portable dental treatment system configured to be compacted and bundled such that a relatively fit person can physically carry that includes a portable base unit 111, Fig. 7, column 6, lines 33-35, including a suction pump 70. Bailey does not show a dental

Art Unit: 3732

bracket table or a suspension device couplable to the base and table. Slouka teaches a removable bracket table 26 and suspension device 25 couplable to a base of a movable dental treatment system 12. It would be obvious to one of ordinary skill in the art to modify Bailey to include a portable bracket table and suspension device as shown by Slouka in order to better service a patient at the patient's location by more conveniently holding dental tools, the combination being an obvious known manner of using the elements to obtain a predictable result. As to claim 2, to call 146 of Brent a bracket tray is merely terminology to the skilled artisan. As to claim 3, Bailey shows a compressor 33, Fig. 5. As to claims 7, 8 and 10, see rotatable connections shown by Slouka. As to claims 18-21, the method steps are an obvious use of the shown structure. As to claim 27, see waste water bottle 146 of Bailey. As to claim 28, see clean water bottle 145 of Bailey.

Claims 5 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bailey et al (5013240) in view of Slouka (3597033) as applied to claims 1 and 6 above, and further in view of Hoffmeister et al (4445859). As to claim 5, the above combination does not show a device comprising a curved member. Hoffmeister teaches a dental treatment system comprising at least one device having a curved member 54. It is held to be an obvious matter of choice to one of ordinary skill in the art as to the shape of the member as in Hoffmeister to serve as a suspension device for the table. The specific shape of the member is not critical to the claimed invention, since the applicant contemplates other configurations. As to claim 10 the above combination does not

Art Unit: 3732

show the second member rotatably attachable to the dental bracket. Hoffmeister teaches using a rotatable connection at 56. It would be obvious to one of ordinary skill in the art to modify the above combination to include a rotatable connection as shown by Hoffmeister in order to better position the bracket in use.

### ***Response to Arguments***

Applicant's arguments have been considered but are held to be moot in view of the new ground(s) of rejection.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Brent (3774773) shows a portable bracket table and suspension device.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John J. Wilson whose telephone number is 571-272-4722. The examiner can normally be reached on Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cris Rodriguez, can be reached at 571-272-4964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3732

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Frederick R Schmidt/  
Director, Technology Center

***/John J Wilson/  
Primary Examiner  
Art Unit 3732***

jw  
August 27, 2008